IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.732 OF 2005

Choice Events & Trade Pvt.Ltd. .. Petitioners
v/s.
Union of India & others. .. Respondents

Mr.T.N. Subramanium i/by M/s.Naraynan & Narayanan for petitioners.

Mr.D.A.Dubey for res.No.1.

Mr.Mohan Naik, AGP for res.No.2.

Mr.K.K.Tated for res.No.3.

Ms.Gauri Godse for Intervener-Respondent.

CORAM : H.L. GOKHALE &
S.C.DHARMADHKARI, JJ.

DATED : 17TH MARCH 2005

ORAL ORDER : (Per H.L. Gokhale, J.)

1. Rule. Rule is made returnable forthwith. Heard the learned Counsel for the parties. This petition is filed by an Organisation which is a Company incorporated under the Companies Act, 1956 and is presently entrusted with the Circus shows of Russian State Circus Company which is in India to perform its shows. The main contesting respondent to this petition is respondent No.3-Animal Welfare Board of India. We have

allowed a registered Trust by name People For Animals (Mumbai) to join in the present petition. It is also opposing this petition.

2. A Troupe of Circus known as the "Russian State Circus Company" is in India for quite sometime. Initially it performed its shows in Kolkata and now, it is in Mumbai. A writ petition was filed earlier by respondent No.3-Animal Welfare Board of India being Writ Petition (Lodging) No.376 of 2005 contending that the Circus Troupe cannot perform its shows unless the registration is obtained from the Board. That petition was heard by us and disposed of on 25th February 2005. Mr.Subramanium, who is appearing for the present petitioners, who were respondent No.4 in that matter, had stated, without prejudice to the submissions, that the Russian Circus was not covered under the Indian Act that the petitioners herein will apply to the Animal Welfare Board for registration. He had further stated that the Circus will start its shows initially without the performance of the animals and that is how the shows started in Mumbai. Now, the Circus wants to perform the shows with the animals. After the above order, the petitioners

moved for registration to the Authorities of the said Board but the Authorities declined to grant the registration. It is, therefore, that the present petition has been filed. Prayer (a) of this petition is that respondent No.3-Board may be directed to grant registration to the petitioners in respect of the performing animals and prayer (b) is that the petitioners may be permitted to conduct their shows along with the performing animals. Mr.Subramanium stated that the Circus is expected to perform its shows in Mumbai up to 27th March 2005, though the shows may get extended. Therefore, the present petition is filed to seek urgent orders.

3. Inasmuch as the petitioners are seeking registration, needless to state that they have to subject the animals for inspection to the Animal Welfare Board. A letter dated 7th March 2005 addressed by the Animal Welfare Board to the petitioners has been annexed to the petition, which states that the inspection was carried out by the veterinary doctors appointed by the Animal Welfare Board and on the basis of the recommendations of the team, permission was not granted. In view of this report, when the matter

came up earlier on 14th March 2005, we asked Mr.Tated, learned Counsel appearing for respondent No.3-Board, to take instructions and inform us as to what is the position in this behalf. He took time to file a reply.

4. Accordingly, an affidavit-in-reply has been filed by one Shri Suresh Babu Kadam, authorised representative of the Animal Welfare Board. Four photographs of the arrangements made for keeping the animals are annexed to this reply. Mr.Tated relied upon a report of the Oshivara Police Station, which states that the representatives of the People For Animals visited the Circus and took inspection. This report of inspection is annexed to the affidavit of one Shri Dharmesh Solanki, Managing Trustee and authorised signatory of the People For Animals (Mumbai) in support of the Chamber Summons moved by the People For Animals. We treat this reply as a reply of this Organisation to the present petition. We have perused this report. A grievance is made that some registers, as required to be maintained, were not made available at the time of inspection. The inspecting team was shown the rooms of the animals viz. (a) sea lions, (b) cats and (c)

dogs. As far as the sea lions are concerned, it is stated that they were 4 in number and they were housed in an air-conditioned room. A grievance was made that the room did not have a window nor any natural light though tube lights were fitted. As far as the cats are concerned, some 7 cats were seen by the inspecting team and it is stated that two of them looked weak. The dogs were 13 in number and the dogs were seen freely moving around. A further statement is made that though the Circus was supposed to bring birds, no birds were brought. Lastly, it is stated in the report that the group did not have any way of knowing whether the quarantine period had been maintained. Mr.Tated is also relying on this report. Having gone through this report, prima facie, we do not find that the animals are not kept in proper condition. It is also not stated in the report that the animals were not found physically fit either.

5. Yet Mr.Subramanium, learned Counsel appearing for the petitioners, has made a statement, on the instructions of the Director of the petitioners, who is present in Court as well as the officers of the Russian Circus, that

although as of now the animals are in good health, the petitioners have no objection if the officers of the Animal Welfare Board visit the Circus with a prior notice for inspecting them at any point of time hereafter also.

6. Having noted the submissions of the Counsel for the petitioners as well as the contesting respondents, we do not see any reason why the registration, as sought by the petitioners, should not be granted to them. The Animal Welfare Board, in fact, should welcome any party which is seeking registration, whether it is an Indian Organisation or a foreign Troupe of Circus. This is a Board which is vested with the authority in respect of the welfare of animals. This being the position, there is no reason why prayer clause (a) of the petition should not be granted.

7. Prayer clause (b) of the petition is that the petitioners may be permitted to perform the shows with the animals. Having gone through the report, prima facie, we do not find, as stated earlier, that the animals are, in any way, not fit to perform. This is on the basis of the report of

the People For Animals and the group sent by them included the veterinary doctor. This being the position, there is no reason why the performance of the shows with the animals also should not be granted. As far as the quarantine period is concerned, that aspect has been taken care of by the Calcutta High Court in an earlier proceeding. No rule prohibiting the performance of animals under any circumstances in Circus shows has been brought to our notice. We have seen the rules which are framed under the Prevention of Cruelty to Animals Act, 1960. The rules are known as Performing Animals (Registration) Rules, 2001. Rule 8 of these Rules provides for general conditions for registration. It will be open to respondent No.3-Animal Welfare Board to insist on compliance of these conditions which this Board can do following upon the registration to be issued to the petitioners.

8. In the circumstances, we allow this petition in terms of prayer clauses (a) and (b) of the petition. However, there will not be any order as to costs.

9. Mr.Tated, learned Counsel appearing for

respondent No.3-Board, requests for stay of this order. Request is rejected.

(H.L. GOKHALE, J.)

(S.C.DHARMADHIKARI, J.)